IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Civil Writ Petition No.814 of 2002.
Judgment Reserved on:11.4.2007
Date of decision:26.04.2007.

State of H.P. & Others **….Petitioners**

Versus

Lance Head Constable Jeet Ram **….Respondent**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

The Hon'ble Mr.Justice Rajiv Sharma,J.

Whether approved for reporting ?[1]

For the Petitioners: **Mr.M.S. Chandel, Advocate General with Mr.Rajan Dewan, Additional Advocate General and Mr.J.K. Verma, Deputy Advocate General.**

For the Respondent: **Mr.Rajnish Maniktala, Advocate.**

Dev Darshan Sud,J.

The State has filed this writ petition against the judgment and order of the State Administrative Tribunal in O.A. No.498 of 1992, decided on 28.9.2001.

The respondent Jeet Singh was the petitioner before the Tribunal challenging the orders passed by the respondents declining his request for correction in his date of birth. While allowing the petition, the learned State Administrative Tribunal considering the entire record before it including the enquiry report submitted by one Shri A.K. Sharda who was the Deputy Superintendent

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgement*?**

of Police who had found as a matter of fact that at the time of entering the service, the date of birth of the respondent herein had been recorded without any confirmatory proof/evidence. He had alleged that based on documentary and other contemporary evidence, his date of birth was 4 Magh 1992 Vikrami equivalent to January 17, 1936.

While allowing the petition, the learned Tribunal quashed the orders rejecting the representation of the petitioner, ordered the correction of the date of birth of the respondent herein with a further direction that the order of the Tribunal be implemented within three months.

Learned Advocate General, appearing for the petitioners, has urged that the judgment requires to be quashed and set aside as it is against law, having been made at a very belated stage.

We have heard learned counsel for the parties and have gone through the record.

We notice that the petition before the Tribunal was filed in the month in which the respondent herein was to retire that is to say the petition was preferred in April, 1992, in which month the respondent was to complete 58 years and accordingly was to retire on 31st April, 1992, according to the date of birth which he had furnished to his employer. This aspect of the matter has not been considered by the Tribunal. The Original Application was filed in the year 1992 and decided in the

year 2001 after a gap of nine years. The writ petition has come up for hearing before us in the year 2007. At this time, the petitioner admittedly would be about 74/75 years of age which fact cannot be disputed. We are noticing this fact in order to arrive at a decision as to what relief should be granted to the petitioner. On the factual aspect of the matter, we hold that the judgment of the Tribunal cannot be faulted with. We find no perversity in the reasoning of the legal principles as applied by the learned Tribunal. However, the judgment goes a step further and directs the grant of consequential benefits. All these facts are being considered at this stage after a lapse of more than 15 years from the date when the petitioner has been superannuated. We cannot pass an order of reinstatement nor can we direct payment of wages for the period which according to the petitioner he would have served if his date of birth had been corrected. We are conscious of the fact that the principles of "No Work or No Pay" would apply. It is but unfortunate that the matter has been pending in Court(s) for the last more than 15 years. However, at the same time we cannot lose sight of the fact that with the passage of time not only has the cause became stale but, in the facts and circumstances of the case, we find ourselves unable to order any monetary relief payable to the petitioner. Even in the pleadings before the learned Tribunal no ground has been made out with respect to consequential benefits to which the

petitioner would be entitled as a consequence of the petition being allowed and the quantum of monetary benefits to which the petitioner would be entitled to as a consequence of his early superannuation. In the totality of circumstances, we hold that the petitioner would not be entitled to any monetary benefit as a result of the petition being allowed by the learned Tribunal. The writ petition is, therefore, disposed of with this modification. We make it clear that the judgment in so far as it relates to the petitioner's relief of correction of his date of birth is not being disturbed by us. There shall be no order as to costs.

(Dev Darshan Sud)
Judge.

April 26, 2007.
(aks)

(Rajiv Sharma)
Judge.